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 United States Courts  
 Southern District of Texas  
 FILED

NC JUN 28 2002

Michael N. Milby, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT  
 FOR THE SOUTHERN DISTRICT OF TEXAS  
 VICTORIA DIVISION**

|                        |   |                            |
|------------------------|---|----------------------------|
| IN RE:                 | § | JOINTLY ADMINISTERED UNDER |
| SENTRY OPERATING       | § | CASE NO. 01-60129-V2-11    |
| COMPANY OF TEXAS, INC. | § | Chapter 11                 |

|                                  |   |                         |
|----------------------------------|---|-------------------------|
| SENTRY OPERATING CO.,            | § | CASE NO. 01-60130-V2-11 |
| AMEY FUNERAL HOME, INC.,         | § | CASE NO. 01-60131-V2-11 |
| SENTRY OPERATING WEST, INC.,     | § | CASE NO. 01-60132-V2-11 |
| SENTRY GROUP SERVICES, INC.,     | § | CASE NO. 01-60133-V2-11 |
| FUNERAL SERVICE                  | § | CASE NO. 01-60134-V2-11 |
| MANAGEMENT, INC.,                | § |                         |
| SENTRY OPERATING COMPANY OF      | § | CASE NO. 01-60135-V2-11 |
| NEW MEXICO, INC.,                | § |                         |
| SENTRY SERVICES AGENCY, INC.     | § | CASE NO. 01-60136-V2-11 |
| NEW MEXICO,                      | § |                         |
| CREMATION SOCIETY OF             | § | CASE NO. 01-60137-V2-11 |
| OKLAHOMA, INC.,                  | § |                         |
| SENTRY OPERATING COMPANY OF      | § | CASE NO. 01-60138-V2-11 |
| COLORADO, INC.,                  | § |                         |
| SENTRY SERVICES AGENCY, INC.-DEL | § | CASE NO. 01-60139-V2-11 |
| SENTRY OPERATING COMPANY OF      | § | CASE NO. 01-60140-V2-11 |
| KANSAS, INC.                     | § |                         |
|                                  | § |                         |

**MOTION TO LIFT STAY BY THE ESTATE OF  
 RAMON SALAZAR , ET. AL..**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, unsecured creditors and parties in interest, the Estate of Ramon Salazar, Fransisca Salazar (surviving spouse), Jose H. Salazar, Ramon Salazar, Alfredo Salazar, Israel Salazar, Rebecca Roque, Raquel Salazar and Amparo Leticia Salazar (children of deceased) ("Movants"), pursuant to 11 U.S.C §362 Bankruptcy Rule 4001, and Local Bankruptcy Rule 4001, and move this Court to enter its order lifting the automatic stay in order to allow certain

state court litigation to proceed to resolution. Movants would show the Court as follows:

I.

1. Movants are plaintiffs in a personal injury case pending the 40<sup>th</sup> District Court of Ellis County, Texas, under Cause No. 62418. On November 14, 2000, Ramon Salazar died and was taken to Boze-Mitchell Funderal Home d/b/a Boze-Mitchell Funeral Home Inc. A few days later, after Plaintiffs had made numerous phone calls to Defendant, they were informed that Mr. Salazar's body had been cremated by mistake and the ashes were sent to Illinois by mistake against the Plaintiffs' wishes. On November 11, 2000, the Plaintiffs' retained our office, The Law Office Of Domingo Garcia as their attorney for this personal injury claim.

2. Plaintiffs' filed their suit in Ellis County on September 6, 2001. Defendants' answered through Thompson & Knight, L.L.P on September 28, 2001.

3. None of the parties to the underling state court litigation were made aware of this bankruptcy proceeding until months after the incident took place and suit had been filed. It was then that Plaintiff was informed that Defendant had filed for Chapter 11 bankruptcy protection. At that point, all of the state court proceedings were immediately stopped. Plaintiff's claim is covered by the Defendant's insurance.

Plaintiff's received a notice that listed numerous entities but none showed that Boze-Mitchell Funeral Home was in bankruptcy. Plaintiff's failed to receive the proper notice in order to timely move to lift the stay.

4. Movant acknowledges that pursuant to 11 U.S.C §362(3), they may not act to obtain possession of property of the estate or to exercise control over property of the estate. Movants would show that she only seeks to proceed with litigation in Ellis County to liquidate

the personal injury claim against the Debtors, and seeks recovery of proceeds of the insurance policies. Movants agree to not seek to collect to any funds or assets of Debtors, all funds will come strictly from Defendants' insurance policies.

5. The burden to Debtors to proceed with this litigation will be minimal. The cost of defense is being borne by the liability insurance carriers for Defendants', not the Debtors. The time burden to Debtors to participate in the defenses of the case will be minimal.

6. Movants' claim is an unliquidated claim, and must be liquidated at some point in time. Further, a jury trial has been demanded in the underlying state court case.


II.

WHEREFORE, PREMISES CONSIDERED, Movants pray that upon consideration of this motion that the Court enter its order lifting the automatic stay regarding litigation of Cause No. 62418 styled *Fransisca Salazar, surviving spouse, Jose H. Salazar, Ramon Salazar, Alfredo Salazar, Israel Salazar, Rebecca Roque, Raquel Salazar and Amparo Leticia Salazar (children of deceased) v. SCI Managemetn Corporation and Boze-Mitchell Funeral Home d/b/a Boze-Mitchell Funeral Home, Inc.*, in the 40<sup>th</sup> Judicial District, Ellis County, Texas, providing that such litigation may go forward to final judgment, but further providing that Movants may recover insurance proceeds but may not seek to recover or move against any assets of the estate without further order of this Court. Movants request all other and further relief as is just.

Respectfully submitted,

LAW OFFICE OF DOMINGO . GARCIA, P.C.  
Domingo A. Garcia

State Bar No. 07631950  
Nicolas A. Quezada  
State Bar No. 24027637  
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DOMINGO GARCIA  
NICOLAS QUEZADA

ATTORNEYS FOR PLAINTIFF

NO HEARING WILL BE CONDUCTED HEREON UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 12A24 EARLE CABELL FEDERAL BUILDING, 1100 COMMERCE ST., DALLAS TEXAS 75242-1496, BEFORE 4:00 O'CLOCK P.M. ON **July \_\_, 2002**, WHICH IS TWENTY (20) DAYS FROM THE DATE OF SERVICE HEREOF.

ANY OBJECTION MUST BE IN WRITING AND FILED WITH THE CLERK, AND A COPY MUST BE SERVED UPON COUNSEL FOR THE MOVING PARTY NO LATER THAN FIVE (5) WORKING DAYS BEFORE THE PRELIMINARY HEARING. IF AN OBJECTION IS FILED, A HEARING WILL BE HELD WITH NOTICE ONLY TO THE OBJECTING PARTY.

IF NO HEARING ON SUCH NOTICE OR MOTION IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing motion was mailed to all parties and counsel for record at their addresses stated and shown on the attached matrix by United States certified mail, return receipt requested, on the \_\_\_\_ day of June, 2002, and as follows:

WEYCER, KAPLAN, PULASKI & ZUBER, P.C.

Edward L. Rothberg

1400 Summit Tower

Eleven Greenway Plaza

Houston, Texas 77046

ATTORNEY FOR DEBTORS

Lynn Fielder

FISK & FIELDER, P.C.

2710 N. Stemmons Freeway

400 Stemmons Tower North

Dallas, Texas 75207

ATTORNEY FOR BOZE-MITCHELL FUNERAL HOME d/b/a

BOZE-MITCHELL FUNERAL HOME, INC.

LOCKE, LIDDELL & SAPP, L.L.P.

Elizabeth Freeman

600 Travis Street, Suite 3400

Houston, Texas 77002

ATTORNEYS FOR SENIOR SECURED LENDER


Stephen C. Schoettmer

THOMPSON & KNIGHT, L.L.P.

1700 Pacific Avenue #3300

Dallas, Texas 75201

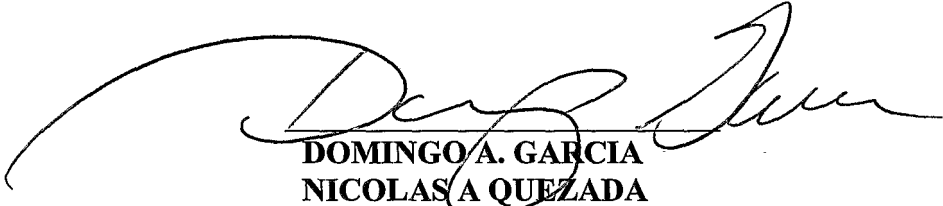
ATTORNEYS FOR SCI MANAGEMENT CORPORATION



DOMINGO A. GARCIA

**CERTIFICATE OF CONFERENCE**  
**WITH WEYCER, KAPLAN, PULASKI & ZUBER, P.C.**

- \_\_\_\_\_ A conference has been held on the merits of this Motion:
- \_\_\_\_\_ I have been unsuccessful in my attempts to contact the attorney for Defendant.
- \_\_\_\_\_ I have been unsuccessful in my attempts to discuss this matter with the Defendant's attorney and said attorney has not returned my phone calls.
- \_\_\_\_\_ This matter has been discussed with opposing counsel and no agreement on the Motion could be reached.
- ☒ Defendant's attorney, Edward L. Rothberg, has agreed and is unopposed to/Movant's request under this Motion.

  
**DOMINGO A. GARCIA**  
**NICOLAS A QUEZADA**

**CERTIFICATE OF CONFERENCE**  
**WITH LOCKE, LIDDELL & SAPP, L.L.P.**

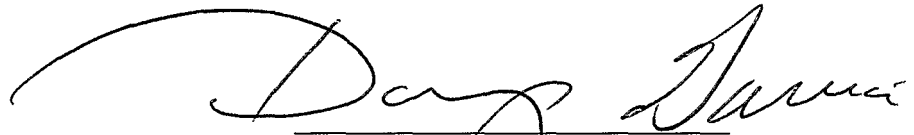
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\_\_\_\_\_ This matter has been discussed with opposing counsel and no agreement on the Motion could be reached.

\_\_\_\_\_ Defendant's attorney has agreed and is unopposed to/Movant's request under this Motion.

  
\_\_\_\_\_  
**DOMINGO A. GARCIA**  
**NICOLAS A QUEZADA**



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| KANSAS, INC.                     | § |                         |
|                                  | § |                         |

**NOTICE OF HEARING ON RELIEF FROM STAY**

On \_\_\_\_\_, a motion was filed, seeking relief from the automatic stay of 11 U.S.C. §362. The court has set the preliminary hearing on the motion for:

Date: \_\_\_\_\_  
 Time: \_\_\_\_\_  
 Courtroom: \_\_\_\_\_ on Floor: \_\_\_\_\_  
 Address: \_\_\_\_\_

\_\_\_\_\_  
 PRESIDING JUDGE